

REMARKS

Claims 1-10 are all the claims pending in the present application.

As a preliminary matter, Applicants thank the Examiner for withdrawing the previous rejections under 35 U.S.C. § 112, second paragraph. However, the Examiner has maintained the prior art rejections. Specifically, claims 1-10 remain rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by McCanne (U.S. Patent No. 6,611,872). Claims 1 and 7-10 remain provisionally rejected on the ground of non-statutory double patenting over claims 1 and 7-8 of co-pending Application No. 11/166,212 (Sughrue Ref. No. Q88441, Alcatel Ref: No. 120928), hereinafter referred to as App '212.

§ 102(e) Rejections (McCanne) - Claims 1-10

Claims 1-10 are rejected based on substantially the same reasons set forth in the previous Office Action. Applicants traverse these rejections at least based on the following reasons.

A brief description of McCanne is set forth in the previously submitted Amendment.

With respect to independent claim 1, Applicants previously argued that McCanne does not disclose or suggest at least, "receiving one or more diversity parameters defining one or more diversities between said connection and a further connection via a second serving edge node of said serving network, wherein said first serving edge node and said second serving edge node are different serving edge nodes" as recited in claim 1. *See page 8 of Amendment dated July 2, 2008.*

In response, the Examiner alleges:

Applicants argued McCanne failed to disclose receiving one or more diversity parameters defining one or more diversities between said connections and a further connection via a second serving edge node of said serving network, wherein said first serving edge node and said second serving edge node are different

serving edge nodes. As best understood, Applicants are exchanging the IP addresses and configuration parameters of the two endpoints of the connection. The two endpoints are diversities, since they are not the same endpoint. Applicants limited amendments to correct the 112 deficiencies and limited explanation of both the invention and the McCanne reference have not assisted in explaining the invention in a manner that can interpret this in another manner.

In response, Applicants maintain the previously submitted arguments, and further submit that the Examiner still has not demonstrated that McCanne satisfies each and every feature of the claimed invention, as recited in the independent claims.

Independent claim 9, for example, recites a client node for performing a method for establishing a connection via a first serving edge node of a serving network. The method that is performed by the client comprises, *inter alia*, an operation of receiving one or more diversity parameters defining one or more diversities between said connection and a further connection via a second serving edge node of said serving network, wherein said first serving edge node and said second serving edge node are different serving edge nodes. That is, claim 9 describes a connection between a client edge node and first and second serving edge nodes; the client edge node receiving one or more diversity parameters defining one or more diversities between one connection (of a first serving edge node) and a further connection via a second serving edge node of the serving network. These particular features are not satisfied by McCanne, as McCanne only appears to describe a simple exchange of connection parameters. Nowhere does McCanne describe the claimed relationship between a client edge node and first and second serving edge nodes, as recited in claim 9, for example. Further, as previously argued, the exchange of connection parameters in McCanne could be the exchange of parameters that define similarities between different connections and not diversities (or differences).

Further, Applicants submit that McCanne is directed to application-level multicast groups mapped onto network-level IP multicast trees (that may be disjoint) by using overlay techniques. McCanne describes vertical information exchanges and state maintenance procedures of these mappings.

The present invention can relate to and/or result in a mechanism to setup disjoint connections at the network-level so as to ensure diversity over hidden parts of the network (from the source-destination point of view).

However, in the prior art, Applicants do not discern teaching or suggest for setting up disjoint multicast distribution trees at the network level using any new mechanism e.g. multicast routing protocols such as PIM, DVMRP or mBGP or any new network-level multicast routing protocol.

At least based on the foregoing, Applicants maintain that McCanne does not anticipate independent claims 1 and 9.

Applicants submit that independent claims 7, 8, and 10 are patentable at least based on reasons similar to those set forth above with respect to claims 1 and 9, as claims 7, 8, and 10 recite features similar to those discussed above with respect to claims 1 and 9.

Applicants submit that dependent claims 2-6 are patentable at least by virtue of their indirect or direct dependencies from independent claim 1.

Provisional Double Patenting Rejections - Claims 1 and 7-10

Claims 1 and 7-10 are provisionally rejected based on the same reasons set forth in the previous Office Action.

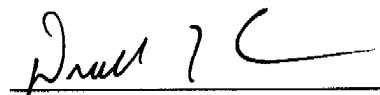
Applicants yet again request that the Examiner hold this rejection in abeyance until the other pending application issues as a patent. Specifically, according to MPEP § 804 I.B., if a

provisional double patenting rejection in one application is the only rejection remaining, then the Examiner should withdraw the provisional rejection and permit that application to issue as a patent, thereby converting the provisional double patenting rejection in the other application, i.e., App '212, into a bona fide double patenting rejection at the time the one application issues as a patent. Therefore, if all other claim rejections are withdrawn in the present application, claims 1 and 7-10 should be found allowable and the present application should be permitted to issue as a patent.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,


Diallo T. Crenshaw
Registration No. 52,778

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE

23373

CUSTOMER NUMBER

Date: January 21, 2009